

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

TERRORIST ATTACKS ON
SEPTEMBER 11, 2001

MEMORANDUM OPINION AND
ORDER

03 MDL 1570 (GBD) (FM)

GEORGE B. DANIELS, District Judge:

On or around November 13, 2015, Plaintiffs filed a letter motion alleging numerous discovery infractions by Defendants Sana-Bell, Inc. and Sanabel al Kheer, Inc. (together, “Sanabel”). (*See* Letter, (ECF No. 3127), at 1-2.) Plaintiffs sought sanctions in the form of the entry of a default judgment, as well as attorneys’ fees and costs¹ and the striking of various confidentiality designations. (*Id.* at 2, 11-13.) Sanabel had until December 21, 2015 to respond. (*See* Order, (ECF No. 3131.) On that date, Sanabel sought an additional sixty days to further respond because counsel “ha[d] been unable to connect with Sanabel’s sole representative for approximately twelve . . . months.” (Letter, (ECF No. 3173).) Sanabel’s request was denied, and counsel was instructed to set forth whether there was “any Sanabel representative . . . authorized to direct Sanabel’s legal representation in these proceedings.” (Order, (ECF No. 3176).) On February 5, 2016, Sanabel’s counsel submitted a letter stating that he had “exhausted all avenues of attempted communication with his client . . . without success” and was not “able to provide a further [r]esponse to Plaintiffs’ Motion . . . or to the Court’s” Order. (Letter, (ECF No. 3209).)

On February 22, 2016, Magistrate Judge Maas issued a Report & Recommendation recommending that this Court enter default judgment against both Sanabel Defendants “because

¹ This Court interprets Plaintiffs’ request for attorneys’ fees and costs to be for those fees and costs incurred due to the discovery dispute between Plaintiffs and Sanabel.

Sanabel is a defunct organization that lacks anyone who can direct its affairs.” (Report and Recommendation (“Report”), (ECF No. 3220), at 3-4.) Magistrate Judge Maas further recommended that Plaintiffs’ request for attorneys’ fees and costs be denied because damages would likely amount to tens of millions of dollars, making attorneys’ fees and costs superfluous or uncollectable. (*Id.* at 4 n.1.) Finally, Magistrate Judge Maas recommended that Plaintiffs’ request to strike Sanabel’s confidentiality designations be denied because the request was not supported by any authority and was premature. (*Id.*)

The Report notified the parties of their right to object to the Report’s findings and recommendations. (*Id.* at 5.) Sanabel timely filed objections to the Report, urging this Court to reject the recommendation to issue default judgment against it because counsel finally was able to contact Sanabel’s representative who indicated that it was able and willing to further participate in this litigation. (Defendants Sana-Bell, Inc. and Sanabel Al Kheer, Inc. Rule 72 Objections to February 22, 2016 Report and Recommendation), (ECF No. 3230).) Based on Sanabel’s representations, this Court returned the matter to Magistrate Judge Maas for further proceedings to determine whether the entry of default judgment was still the most appropriate adjudication of Plaintiffs’ original letter motion. (Memorandum Opinion and Order, (ECF No. 3250), at 3.)

Recently, however, Sanabel informed this Court that it no longer objects to, and in fact requests that default judgment be entered against it. (Letter, (ECF No. 3292).) Sanabel further requested that this Court adopt Magistrate Judge Maas’s recommendation denying Plaintiffs’ request for attorneys’ fees and costs. (*Id.*)

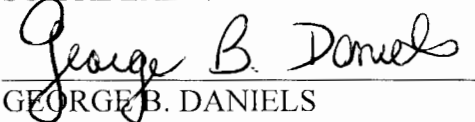
Federal Rule of Civil Procedure 72(b)(3) provides that a district judge “may accept, reject, or modify the recommended disposition” of the magistrate judge, “receive further evidence[,] or return the matter to the magistrate judge with instructions.” In light of the developments since this

Court returned this matter to Magistrate Judge Maas for further proceedings, this Court adopts the findings and recommendation set forth in the Report in their entirety. (*See Report.*)

Accordingly, the Clerk of Court is directed to enter default judgment against Sanabel. Plaintiffs' requests for attorneys' fees and costs are denied. Magistrate Judge Maas's recommendation to deny Plaintiffs' request to strike Sanabel's confidentiality designations is also adopted.

Dated: July 13, 2016
New York, New York

SO ORDERED:



GEORGE B. DANIELS
United States District Judge